

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

CITY OF RICHMOND HEIGHTS,	)	No. ED95791
	)	
Appellant,	)	Appeal from the St. Louis
vs.	)	County Circuit Court
	)	
RUTH L. GASWAY, ET AL.,	)	
	)	
Respondents.	)	Filed: September 20, 2011

In this condemnation action, the City of Richmond Heights questions the constitutionality of two state statutes, Sections 523.039 and 523.061, which provide for additional compensation where a homestead taking occurs. The City contends that application of these two statutes violates the “just compensation” provision of Article I, section 26 of the Missouri Constitution.

#### TRANSFERRED TO MISSOURI SUPREME COURT

DIVISION FOUR HOLDS: This case involves a challenge to the validity of a Missouri state statute. The City has properly raised and preserved the issue for appellate review. And the City’s claim is real and substantial, and not merely colorable. Thus this case falls within the exclusive appellate jurisdiction of the Missouri Supreme Court.

Opinion by Lawrence E. Mooney, J. Patricia L. Cohen, P.J., and George W. Draper III, J., concur.

Attorneys for Appellant: Kenneth J. Heinz and Carl J. Lumley

Attorneys for Respondents: Steven E. Spoeneman, Shanna K. Surratt, and Jennifer M. West

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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